IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6566 of 1998

For Approval and Signature:

HON'BLE MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GAURIBEN KANTILAL VAGHELA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 6566 of 1998

MS SADHANA SAGAR for Petitioner No. 1

MR PRADIP BHATE A.G.P. for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 29/03/2004

ORAL JUDGEMENT

The grievance of the petitioner is that though she has been working on part time basis since 31st January, 1995, with respondent no. 2, her service has

not been regularized despite repeated request.

1.1. It appears that the petitioner was appointed as part time sweeper in respondent no. 2 on 31st January 1995. Her letter of appointment shows that it was on ad hoc basis and that the service was temporary. She was required to work for four hours in a day at a monthly salary of Rs.400=00. On 21st January, 1998, she wrote a letter to respondent no. 1 requesting him to regularize her service and to appoint her on permanent post. She in the said letter stated that she was appointed through employment exchange and by then she had put in about three years service. She also pointed out that certain permanent posts were vacant in Police Head quarters, at Viramgam and also at Sanad Police Station. Her request was not granted. She has, therefore, approached this Court by way of this petition.

2. The question regarding regularization of service on temporary or part time employee who has put in number of years of service has been considered and decided by this Court in Special Civil Application No. 8917 of 1998 and its cognate matters by judgment dated 17th February, 2004. In view of the said judgment, this petition deserves to be allowed with the following directions :-

The respondents are, therefore, now required to be directed that irrespective of the Circular of 21st August, 1995, they shall consider the case of petitioner for appointment on permanent post in Class-IV and if the permanent posts are found vacant, she shall be appointed on the same in accordance with her claim, in the matter of seniority and the Regulations and if otherwise, she is not ineligible. Appointment should not be denied on the ground of overage or on the ground that it may amount to giving a back-door entry. This exercise to be carried out as early as possible but in any case not later than 30th May, 2004. If need be, the petitioner can make appropriate representation, which will be considered in light of this judgment and in particular, the direction given therein.

The petition is partly allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

[AKSHAY H. MEHTA, J.]

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